



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/624,286    07/24/00    STUNNENBERG    F    98 400 204.8

IM22/1214

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EXAMINER

MCAVOY, E

ART UNIT

PAPER NUMBER

1764

DATE MAILED:

12/14/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/624,286

Applicant(s)

STUNNENBERG ET AL.

Examiner

Ellen M McAvoy

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☒ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 17) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other:

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benda et al (6,071,863).

Benda et al ["Benda"] disclose biodegradable polyolefin fluids comprising oligomers of mixtures of dodecene and tetradecene alpha-olefins which are useful in functional fluid and lubricant compositions. The fluids have kinematic viscosities at 100°C of from 5 to 20 mm<sup>2</sup>/s and a biodegradability of at least about 50 percent. Benda teaches that substantially pure 1-dodecene and 1-tetradecene are mixed before oligomerization by known methods. The reaction product is predominantly trimer and higher oligomers. See col. 1, line 49 to col. 2, line 43. Benda teaches that the product can be distilled to obtain different viscosity cuts such as 5.5 to 7.5 mm<sup>2</sup>/s. The product fluids may also be hydrogenated to improve stability. See col. 2, lines 44-57. This clearly encompasses the base oil composition of independent claim 1 and the method of independent claim 9. Benda allows for the addition of conventional lubricant additives to the oligomer fluids in amounts of up to 25 weight percent. Such additives include, for example, dispersants, antioxidants, and antiwear agents. See col. 2, lines 58 to col. 3, line 15. Thus, the examiner is of the position that Benda encompasses the claimed invention.

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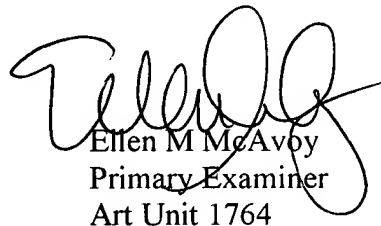
*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen M McAvoy whose telephone number is (703) 308-2510. The examiner can normally be reached on M-F (7:30-5:00) with alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode can be reached on (703) 308-4311. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-5408 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Ellen M McAvoy  
Primary Examiner  
Art Unit 1764

EMcAvoy  
December 11, 2000